

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 462

Introduced by Dubas, 34; McGill, 26; Nantkes, 46; Wallman, 30;

Read first time January 16, 2007

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;
2 to amend section 48-121, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to disability
4 payments during vocational rehabilitation; and to repeal
5 the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-121, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-121 The following schedule of compensation is hereby
4 established for injuries resulting in disability:

5 (1) For total disability, the compensation during such
6 disability shall be sixty-six and two-thirds percent of the wages
7 received at the time of injury, but such compensation shall not be
8 more than the maximum weekly income benefit specified in section
9 48-121.01 nor less than the minimum weekly income benefit specified
10 in section 48-121.01, except that if at the time of injury the
11 employee receives wages of less than the minimum weekly income
12 benefit specified in section 48-121.01, then he or she shall
13 receive the full amount of such wages per week as compensation.
14 Nothing in this subdivision shall require payment of compensation
15 after disability shall cease.

16 (2) For disability partial in character, except the
17 particular cases mentioned in subdivision (3) of this section,
18 the compensation shall be sixty-six and two-thirds percent of the
19 difference between the wages received at the time of the injury and
20 the earning power of the employee thereafter, but such compensation
21 shall not be more than the maximum weekly income benefit specified
22 in section 48-121.01. This compensation shall be paid during the
23 period of such partial disability but not beyond three hundred
24 weeks. Should total disability be followed by partial disability,
25 the period of three hundred weeks mentioned in this subdivision

1 shall be reduced by the number of weeks during which compensation
2 was paid for such total disability.

3 (3) For disability resulting from permanent injury of
4 the classes listed in this subdivision, the compensation shall be
5 in addition to the amount paid for temporary disability, except
6 that the compensation for temporary disability shall cease as
7 soon as the extent of the permanent disability is ascertainable.
8 For disability resulting from permanent injury of the following
9 classes, compensation shall be: For the loss of a thumb, sixty-six
10 and two-thirds percent of daily wages during sixty weeks. For the
11 loss of a first finger, commonly called the index finger, sixty-six
12 and two-thirds percent of daily wages during thirty-five weeks. For
13 the loss of a second finger, sixty-six and two-thirds percent of
14 daily wages during thirty weeks. For the loss of a third finger,
15 sixty-six and two-thirds percent of daily wages during twenty
16 weeks. For the loss of a fourth finger, commonly called the little
17 finger, sixty-six and two-thirds percent of daily wages during
18 fifteen weeks. The loss of the first phalange of the thumb or of
19 any finger shall be considered to be equal to the loss of one-half
20 of such thumb or finger and compensation shall be for one-half of
21 the periods of time above specified, and the compensation for the
22 loss of one-half of the first phalange shall be for one-fourth of
23 the periods of time above specified. The loss of more than one
24 phalange shall be considered as the loss of the entire finger or
25 thumb, except that in no case shall the amount received for more

1 than one finger exceed the amount provided in this schedule for
2 the loss of a hand. For the loss of a great toe, sixty-six and
3 two-thirds percent of daily wages during thirty weeks. For the
4 loss of one of the toes other than the great toe, sixty-six and
5 two-thirds percent of daily wages during ten weeks. The loss of the
6 first phalange of any toe shall be considered equal to the loss of
7 one-half of such toe, and compensation shall be for one-half of the
8 periods of time above specified. The loss of more than one phalange
9 shall be considered as the loss of the entire toe. For the loss of
10 a hand, sixty-six and two-thirds percent of daily wages during one
11 hundred seventy-five weeks. For the loss of an arm, sixty-six and
12 two-thirds percent of daily wages during two hundred twenty-five
13 weeks. For the loss of a foot, sixty-six and two-thirds percent of
14 daily wages during one hundred fifty weeks. For the loss of a leg,
15 sixty-six and two-thirds percent of daily wages during two hundred
16 fifteen weeks. For the loss of an eye, sixty-six and two-thirds
17 percent of daily wages during one hundred twenty-five weeks. For
18 the loss of an ear, sixty-six and two-thirds percent of daily
19 wages during twenty-five weeks. For the loss of hearing in one ear,
20 sixty-six and two-thirds percent of daily wages during fifty weeks.
21 For the loss of the nose, sixty-six and two-thirds percent of daily
22 wages during fifty weeks.

23 In any case in which there is a loss or loss of use
24 of more than one member or parts of more than one member set
25 forth in this subdivision, but not amounting to total and permanent

1 disability, compensation benefits shall be paid for the loss or
2 loss of use of each such member or part thereof, with the periods
3 of benefits to run consecutively. The total loss or permanent
4 total loss of use of both hands, or both arms, or both feet,
5 or both legs, or both eyes, or hearing in both ears, or of any
6 two thereof, in one accident, shall constitute total and permanent
7 disability and be compensated for according to subdivision (1) of
8 this section. In all other cases involving a loss or loss of use
9 of both hands, both arms, both feet, both legs, both eyes, or
10 hearing in both ears, or of any two thereof, total and permanent
11 disability shall be determined in accordance with the facts.
12 Amputation between the elbow and the wrist shall be considered
13 as the equivalent of the loss of a hand, and amputation between
14 the knee and the ankle shall be considered as the equivalent of
15 the loss of a foot. Amputation at or above the elbow shall be
16 considered as the loss of an arm, and amputation at or above the
17 knee shall be considered as the loss of a leg. Permanent total
18 loss of the use of a finger, hand, arm, foot, leg, or eye shall
19 be considered as the equivalent of the loss of such finger, hand,
20 arm, foot, leg, or eye. In all cases involving a permanent partial
21 loss of the use or function of any of the members mentioned in
22 this subdivision, the compensation shall bear such relation to
23 the amounts named in such subdivision as the disabilities bear to
24 those produced by the injuries named therein. If the employer and
25 the employee are unable to agree upon the amount of compensation

1 to be paid in cases not covered by the schedule, the amount
2 of compensation shall be settled according to sections 48-173 to
3 48-185. Compensation under this subdivision shall not be more than
4 the maximum weekly income benefit specified in section 48-121.01
5 nor less than the minimum weekly income benefit specified in
6 section 48-121.01, except that if at the time of the injury the
7 employee received wages of less than the minimum weekly income
8 benefit specified in section 48-121.01, then he or she shall
9 receive the full amount of such wages per week as compensation.

10 (4) For disability resulting from permanent disability,
11 if immediately prior to the accident the rate of wages was fixed
12 by the day or hour, or by the output of the employee, the weekly
13 wages shall be taken to be computed upon the basis of a workweek of
14 a minimum of five days, if the wages are paid by the day, or upon
15 the basis of a workweek of a minimum of forty hours, if the wages
16 are paid by the hour, or upon the basis of a workweek of a minimum
17 of five days or forty hours, whichever results in the higher weekly
18 wage, if the wages are based on the output of the employee.

19 (5) The employee shall be entitled to compensation
20 from his or her employer for temporary disability while
21 undergoing physical or medical rehabilitation and while undergoing
22 vocational rehabilitation whether such vocational rehabilitation is
23 voluntarily offered by the employer and accepted by the employee or
24 is ordered by the Nebraska Workers' Compensation Court or any judge
25 of the compensation court. Any compensation paid during vocational

1 rehabilitation shall be in addition to the amount paid for
2 temporary disability or permanent disability used to calculate the
3 three hundred weeks specified in subdivision (2) of this section.

4 Sec. 2. Original section 48-121, Reissue Revised Statutes
5 of Nebraska, is repealed.